



Department
for Transport

Rail Franchising Programme

InterCity East Coast

Official Journal of the European Union
(OJEU) Notice

October 2013

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The following OJEU was sent on 25 October 2013 for publication in the Official Journal of the European Union.

UK-London: Railway transport services.

Section I: Contracting Authority

I.1) Name, Addresses and Contact Point(s):

Department for Transport (DfT)

Zone 17, Floor 4, Great Minster House, 33 Horseferry Road, London, SW1P 4DR, United Kingdom

Tel. +44 2079443693, Email: lcecfranchise@dft.gsi.gov.uk,

URL: <https://www.gov.uk/government/organisations/department-for-transport>

Contact: Mr. Dale Ward, Attn: Mr Dale Ward

Electronic Access URL:

<https://www.gov.uk/government/organisations/department-for-transport/series/rail-franchising>

Further information can be obtained at: As Above

Specifications and additional documents: As Above

Tenders or requests to participate must be sent to: As Above

I.2) Type of the contracting authority:

Ministry or any other national or federal authority, including their regional or local sub-divisions

I.3) Main activity:

Other: Transport

I.4) Contract award on behalf of other contracting authorities:

The contracting authority is purchasing on behalf of other contracting authorities: No

Section II: Object Of The Contract: SERVICES

II.1) Description

II.1.1) Title attributed to the contract by the contracting authority: InterCity East Coast

II.1.2) Type of contract and location of works, place of delivery or of performance: SERVICES

Service Category: 18

Region Codes: UK - UNITED KINGDOM

II.1.3) Information about a public contract, a framework or a dynamic purchasing system: The notice involves a public contract

II.1.5) Short description of the contract or purchase:

Railway transport services. Public transport services by railways. The DfT is seeking to appoint an appropriately experienced and qualified person to operate the InterCity East Coast rail passenger franchise. The successful bidder will be required to purchase East Coast Main Line Company Limited (ECML) for a sum set by DfT (and which is expected to be less than £20 million) and on terms set by DfT and then for ECML to enter into a contract to run the franchise services which the bidder has agreed with the Department. Expressions of interest are now being sought from the market. Parties which are successful at being shortlisted will receive the Invitation to Tender (ITT). It is expected that this will

be issued in February 2014 and that the deadline for the submission of tenders will be in May 2014. It is anticipated that the contract will commence in February 2015.

The proposed InterCity East Coast franchise will cover the services currently run by ECML which comprise services connecting London with Yorkshire, the North East and Scotland, utilising the electrified East Coast Main Line and routes into Scotland. Bidders may also be asked to run, or have the option to run, services to up to 5 (five) additional destinations (plus intermediate stops) in any one or more of the following: Yorkshire, the North East, the Midlands, and the East of England. The additional destinations will be specified in the ITT.

Once it has been purchased by the successful bidder, ECML will be required to enter into the Train Availability and Reliability Agreement (TARA) with Agility Trains East Limited for the supply of Intercity Express Trains for use on the East Coast franchise, and a number of other ancillary agreements concerning the supply of these trains. A copy of the current form of TARA (which is to be amended and restated) is at

URL: <https://www.gov.uk/government/publications/intercity-express-programme-technical-specification-and-contracts>

The services run by ECML are on an electrified 393 miles (632 km) railway link between London, Peterborough, Doncaster, Leeds, York, Newcastle and Edinburgh. It is one of the fastest conventional lines in the UK with most of the line being rated for 125 mph (200 km/h) operation. Non electrified line extends further north into Scotland from Edinburgh to Inverness and Aberdeen.

In 2012/13 the services that ECML run had total passenger-related revenue of GBP 611.76 million, covering 19,054,000 passenger journeys and 3,066,469,000 passenger miles.

The length of the franchise term is anticipated to be around 8 or 9 years with a possible extension of up to 2 years callable at DfT's discretion.

DfT has published a Prospectus in October 2013. This provides further information about the tender process and describe the scope of the requirements for this contract more fully, including the possibility of certain additional services which may be provided at the option of bidders. The Prospectus will be available at <https://www.gov.uk/government/organisations/department-for-transport/series/rail-franchising>

II.1.6) Common Procurement Vocabulary:
60200000 - Railway transport services.

60210000 - Public transport services by railways.

II.1.7) Information about Government Procurement Agreement (GPA):
The contract is covered by the Government Procurement Agreement (GPA):
Yes

II.1.8) Lots:

This contract is divided into lots: No

II.1.9) Information about variants:

Variants will be accepted: No

II.2) Quantity Or Scope Of The Contract

II.2.1) Total quantity or scope:

The franchise agreement which ECML will enter into (once it has been bought by the successful bidder) will be based on the standard form franchise agreement currently being revised in line with Government policy. The agreement will include a mechanism for recognising the residual value of investments made during the franchise which have a commercial value beyond the term of the franchise and which may not provide a commercial return during the life of the franchise.

The franchise agreement will include a profit share and profit cap mechanism and it is anticipated to include a mechanism for sharing revenue risk linked to economic factors.

Under the franchise agreement ECML will be expected to take on the leases of the principal East Coast stations and to make enhancements to these new stations. The nature and the length of these leases and the mechanism for recognising any 'residual value' if appropriate will be set out in the Invitation to Tender.

ECML as franchise operator may be able to benefit from implementing revised working arrangements with Network Rail in the form of an alliance. This work would align incentives and may require ECML and Network Rail to agree to different arrangements between their respective organisations.

Further details of the requirements for the franchise agreement will be set out in the ITT. A copy of the Share Purchase Agreement which the successful bidder must execute to purchase ECML will also be provided with the ITT.

II.2.2) Options: No

II.2.3) Information about renewals:

This contract is subject to renewal: Not Provided

II.3) Duration Of The Contract Or Time-Limit For Completion

Not Provided

Information About Lots

Section III: Legal, Economic, Financial And Technical Information

III.1) Conditions relating to the contract

III.1.1) Deposits and guarantees required:

The DfT will require a funding deed to be provided to ECML by ECML's new parent or another entity linked to the parent and some or all of this funding deed to be underwritten by suitably accredited third parties or banks. The funding deed required will be for a minimum of GBP 50 million, and funding required in excess of this figure will be calculated based on the percentage of premium payments bid in excess of a defined profile of payment. The method for calculating the size of the funding deed will be set out in the ITT.

ECML may be required to provide a parent company guarantee of up to GBP 10 million in support of its stations obligations.

ECML's new parent or a third party will be required to provide a replacement parent guarantee (or other equivalent security) in respect of the maintenance obligations of ECML under existing leasing arrangements with Angel Trains for the lease of 116 vehicles which expires in December 2018. The guarantee has a maximum liability amount of GBP 7.2 million.

ECML must provide a third party backed Performance Bond (sized to reflect the Department's view of the cost of reletting the franchise in the event of default) and a Season Ticket Bond (calculated in accordance with a formula set out in the standard form franchise agreement). These bonds are expected to be up to GBP 20 million and GBP 10 million respectively.

III.1.2) Main financing conditions and payment arrangements and/or reference to the relevant provisions governing them:
Not Provided

III.1.3) Legal form to be taken by the group of economic operators to whom the contract is to be awarded:

The Franchise Agreement will be between the Secretary of State for Transport, the successful bidder and ECML once ECML has been purchased by the successful bidder.

III.1.4) Other particular conditions:

The performance of the contract is subject to particular conditions: No

III.2) Conditions For Participation

III.2.1) Personal situation of economic operators, including requirements relating to enrolment on professional or trade registers:

The information and formalities necessary to assess whether a person qualifies to receive an Invitation to Tender are contained in the Pre-Qualification Questionnaire (PQQ) and Pre-Qualification Process Document (PPD).

Interested parties will be required to sign a Franchise Letting Process Agreement (FLPA) to participate in the pre-qualification process. The FLPA can be found at:

<https://www.gov.uk/government/organisations/department-for-transport/series/rail-franchising>

III.2.2) Economic and financial capacity

Economic and financial capacity - means of proof required:

Information and formalities necessary for evaluating if requirements are met:

The information and formalities necessary to assess whether a person qualifies to receive an Invitation to Tender are contained in the PQQ and PPD.

III.2.3) Technical capacity

Technical capacity - means of proof required

Information and formalities necessary for evaluating if requirements are met:

The information and formalities necessary to assess whether a person qualifies to receive an ITT are contained in the PQQ and PPD.

III.2.4) Information about reserved contracts: Not Provided

III.3) Conditions Specific To Service Contracts

III.3.1) Information about a particular profession:

Execution of the service is reserved to a particular profession: No

III.3.2) Staff responsible for the execution of the service:

Legal persons should indicate the names and professional qualifications of the staff responsible for the execution of the service: No

Section IV: Procedure

IV.1) Type Of Procedure

IV.1.1) Type of procedure: Negotiated

Some candidates have already been selected: No

IV.1.2) Limitations on the number of operators who will be invited to tender or to participate:

Envisaged minimum number:

Objective Criteria for choosing the limited number of candidates:

Optimal number for franchise competition.

Envisaged to be the three highest ranked persons who respond to the PQQ and any other person whose score is within 10% of the third ranked person up to a maximum of 5 (five) shortlisted persons in total.

IV.1.3) Reduction of the number of operators during the negotiation or dialogue:

No

IV.2) Award Criteria

IV.2.1) Award criteria:

The most economically advantageous tender in terms of the criteria stated in the specifications, in the invitation to tender or to negotiate or in the descriptive document

IV.2.2) Information about electronic auction:

An electronic auction will be used: No

IV.3) Administrative Information

IV.3.1) File reference number attributed by the contracting authority: Not provided

IV.3.2) Previous publication(s) concerning the same contract: Yes

Prior information notice

Notice number in OJEU: 2013/S 62 - 103861 of 28/03/2013

Other previous publications: No

IV.3.3) Conditions for obtaining specifications and additional documents or descriptive document:

Payable documents: No

IV.3.4) Time-limit for receipt of tenders or requests to participate

Date: 02/12/2013

Time: 11:00

IV.3.5) Date of dispatch of invitations to tender or to participate to selected candidates: Not Provided

IV.3.6) Language(s) in which tenders or requests to participate may be drawn up: English

Section VI: Complementary Information

VI.1) This Is A Recurrent Procurement: No

VI.2) Information about European Union funds:

The contract is related to a project and/or programme financed by European Union funds: No

VI.3) Additional Information: The contract to be let is a service concession contract and, without prejudice to the application of Article 3 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (the "Directive"), this tender process is not subject to the Directive. This tender is subject to Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (the "Regulation") and constitutes a 'public service contract' within the meaning of the Regulation. Accordingly the publication of this notice in the Official Journal of the EU is entirely voluntary. References to the negotiated procedure in this notice do not constitute reference to the negotiated procedure with prior publication of a contract notice as described in the Directive and should not be construed in any way as constituting an undertaking by the Authority to carry out a tender process in line with the requirements that apply to the carrying out of a tender process by means of the negotiated procedure with prior publication of a contract notice under the Directive. The tender process which the Authority intends to follow will be described in more detail in the Prospectus, the PPD and the ITT.

The information contained in this notice, including the list of CPV codes, is neither exhaustive nor binding, and may be amended at the time of issue of any further notice or notices or at any other time at the discretion of Authority.

Tenders and all supporting documentation must be priced in pounds sterling.

Any resulting contract will be considered a contract made in England according to English law. The Authority is not and shall not be liable for any costs incurred by those expressing an interest or negotiating or tendering for this contract. The Authority reserves the right not to award a contract, to make whatever changes it sees fit to the structure and timing of the procurement process, to cancel the process in its entirety at any stage and, where it considers it appropriate to do so, make a direct contract award pursuant to Article 5(6) of the Regulation.

To view this notice, please click here:

<https://www.delta-esourcing.com/delta/viewNotice.html?noticeId=77348428>

VI.4) Procedures For Appeal

VI.4.1) Body responsible for appeal procedures:

Not Provided

VI.4.2) Lodging of appeals: Not Provided

VI.4.3) Service from which information about the lodging of appeals may be obtained:
Not Provided

VI.5) Date Of Dispatch Of This Notice: 25/10/2013